

REMARKS

The Official Action of September 4, 2008, and the prior art cited and applied therein have been carefully studied. The claims in the application are now claims 1-16, including new claim 16, and these claims define patentable subject matter warranting their allowance. Favorable reconsideration and allowance are earnestly solicited.

Acknowledgement by the PTO of the receipt of applicants' papers filed under Section 119 is noted.

New claim 16 has been added as a second independent claim. It is similar to claim 1 as amended above, but also includes one of the features of claim 5. It is patentable for the same reasons a claim 1, as pointed out below.

Claims 1-15 have been rejected under Section 103 as obvious from Matsui et al USP 4,871,674 (Matsui). This rejection is respectfully traversed.

Matsui is known prior art which is discussed in applicants' specification at pages 1 and 2, and may be considered a starting point over which the present invention is an improvement. The Matsui cell insert is of a symmetrical configuration as well illustrated in the Matsui drawings.

Accordingly, in rest position as shown in Figs. 7 and 8, only small windows exist into which a pipette would have to be squeezed to reach the inside of the well. To make a larger window 7 as shown in Figs. 9 and 10, it is necessary to lift the insert to an elevated position as shown in Fig. 10, thus requiring an additional operational step in its use.

Moreover, when the insert is lifted, the wall of the insert (again, please see Fig. 10 of Matsui) comes into contact with the wall of the well, which is additionally undesirable because of possible damage to the culture cells within the well. This problem is pointed out in the bottom paragraph of page 1 of applicants' specification as follows:

[Matsui] describes that the cell culture insert can be moved into an upper position to enlarge the feed window for inserting a pipette. In the process the cell culture insert rest against the wall of the well, resulting in the cells in the well being damaged.

Matsui does not disclose the claimed structure as called for in claims 1 and 16 including a spacer which is shorter than other spacers to provide a large feed window when the insert is in the rest position (claims 1-15), and/or wherein the insert is suspended eccentrically in the well to provide a large feed window (claims 5 and 16).

It should be clear that Matsui does not disclose and gives no hint of the structure called for in applicants'

claims, and to the contrary explicitly shows the lifting (Figs. 9 and 10 of Matsui) of the insert in order to provide a large insertion window. The novel structure of applicants' claimed invention avoids (1) the additional step of lifting the insert as well as (2) the possible damage to the cells of the culture by bringing the outside of the wall of the insert against the inner surface of the wall of the well.

Withdrawal of the rejection is in order and is respectfully requested.

No rejection has been imposed under Section 103, and applicants agree that it would not have been obvious to make the changes in Matsui necessary to reach applicants' claims. Insofar as is known, there is no secondary prior art which would have made it obvious to modify Matsui to correspond with the claimed subject matter.

The prior art documents of record and not relied upon by the PTO have been noted, along with the implication that such documents are deemed by the PTO to be insufficiently material to warrant their application against any of applicants' claims.

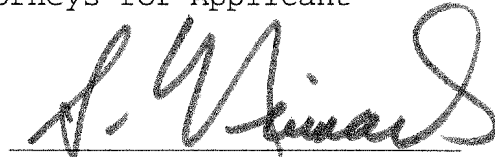
Appln. No. 10/522,544
Amd. dated December 3, 2008
Reply to Office Action dated September 4, 2008

Applicants believe that all issues raised in the Official Action have been addressed above in a manner that should lead to patentability of the present application. Favorable consideration and early formal allowance are respectfully requested.

Respectfully submitted,

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By

A handwritten signature in dark ink, appearing to read 'S. Neimark', is written over a horizontal line.

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